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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

B. Thomas Barker et al

Application No. 10/731,210

Filed December 9, 2003

MULTI-AXIAL BONE SCREW ASSEMBLY)

) Before the Examiner

) SWIGER III, James L.

) Group Art Unit

) 3733

INFORMATION DISCLOSURE STATEMENTMail Stop AMENDMENT
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

1. List of All Patents, Publications, U.S. Applications, or Other Information

Pursuant to the provisions of 37 CFR 1.56, 1.97, and 1.98, Applicant requests consideration of the references listed on the attached PTO/SB/08 form(s) (commonly referred to as a PTO-1449 form) and/or the additional information identified below.

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Christopher A. Brown

Typed/printed name of person signing this certificate

Signature

Date

10 October 2006

Information Disclosure Statement
Serial No. 10/731,210
Group Art Unit 3733
#382693

10/11/2006 MBINAS 00000030 10731210

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180.00 OP

Page 1 of 4

Attorney Docket No. 4002-3460/PC398.08

2. Enclosed Legible Copies

- a. A legible copy of each foreign patent document and publication listed on the PTO/SB/08 form is enclosed,
- ☒ i. except, a copy is not provided for each reference previously cited by or submitted to the Patent Office in prior U.S. Patent Application Serial Nos. 09/387,911, filed September 1, 1999 and 09/940,902, filed August 28, 2001 from which the present application claims priority under 35 U.S.C. §120.
- ☐ ii. except, a copy is not provided for each cumulative reference and enclosed reference identified below:
- ☐ b. A copy of the specification and drawings for each cited unpublished U.S. application.
- ☐ c. A copy of a Search Report or Written Opinion from a foreign patent office is also enclosed.
- ☐ d. Consideration of the enclosed additional and/or below discussed information is requested.

3. Concise Explanation of Relevance for Non-English Language Information

For each non-English language reference listed on the attached SB/08 form(s), reference is made to:

- ☐ 3a. an English language translation submitted herewith,
- ☐ 3b. foreign patent office Search Report (in the English language) submitted herewith,
- ☐ 3c. an English language translation of a foreign patent office Search Report submitted herewith,
- ☐ 3d. the concise explanation contained in the present application at page(s) _____,
- ☐ 3e. the concise explanation set forth in the attached English language abstract,
- ☐ 3f. a copy of a related patent publication (in the English language) cited herewith,

Foreign Patent Document	Corresponding English Language Patent Document

- ☐ 3g. the following concise explanation: _____

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4. Time for Filing

- ☐ 4a. This Information Disclosure Statement is submitted:
- ☐ i. for U.S. national applications or national stage PCT applications (not including CPAs and RCEs), within 3 months of filing or entry into national stage; or
 - ☐ ii. for U.S. national applications, national stage PCT applications, CPAs or RCEs, before the first Office Action on the merits,
- and thus no certification and/or fee is required.
- ☒ 4b. This information Disclosure Statement is submitted after three months from the filing date and after the first Office Action on the merits, but prior to the mailing date of a final Office Action or Notice of Allowance, and thus:
- ☐ i. the statement specified in 37 CFR §1.97(e) is provided below, or
 - ☒ ii. a fee of \$180.00 (set forth in 37 CFR §1.17(p)) is enclosed.
- ☐ 4c. This Information Disclosure Statement is submitted after the mailing date of a final Office Action or Notice of Allowance and prior to payment of the issue fee, and thus:
- ☐ i. the statement specified in 37 CFR §1.97(e) is provided below, and a fee of \$_____ (set forth in 37 CFR §1.17(p)) is enclosed, or
 - ☐ ii. a Request for Continued Examination (RCE) and fee of 37 CFR §1.17(e) has been filed.
- ☐ 4d. This Information Disclosure Statement is submitted after payment of the issue fee, and thus:
- i. a Petition to Withdraw from Issue pursuant to 37 CFR §1.313(c)(2) has been filed, and
 - ii. a Request for Continued Examination (RCE) and fee of 37 CFR §1.17(e) has been filed.

Information Disclosure Statement
Serial No. 10/731,210
Group Art Unit 3733
#382693

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Attorney Docket No. 4002-3460/PC398.08

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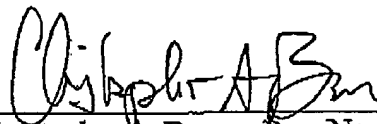
5. Certification- Statement Under 37 CFR 1.97(e)

- ☐ 5a. It is hereby certified that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement.
- ☐ 5b. A copy of a dated communication from a foreign patent office which clearly shows the statement is being submitted within three (3) months of the date on the communication is enclosed.
- ☐ 5c. It is hereby certified that no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to my knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in §1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

The filing of this Information Disclosure Statement shall not be construed as an admission that the information cited is, or is considered to be, material to patentability as defined in §1.56(b). It is believed that no additional fees are required. Should any other fee be required, however, please charge such fee to Deposit Account No. 23-3030, but not to include any payment of issue fees.

Respectfully submitted,

By



Christopher A. Brown, Reg. No. 41,642
Woodard, Emhardt, Moriarty, McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, Indiana 46204-5137
(317) 634-3456

WEMMH PTO/SB/08a (07-05)

Approved for use through 07/31/2008. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)				Complete If Known	
				Application Number	10/731,210
				Filing Date	December 9, 2003
				First Named Inventor	BARKER, B. Thomas
				Art Unit	3733
				Examiner Name	SWIGER III, James L.
Sheet	1	of	4	Attorney Docket No.	4002-3460; PC398.08

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U.S. PATENT DOCUMENTS						
Examiner Initials*	Cite No.	Document Number		Publication Date MM-DD-YYYY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)				
		US-	4,763,644	08/16/1988	Webb	
		US-	4,805,602	02/21/1989	Puno et al.	
		US-	4,946,458	08/07/1990	Harms et al.	
		US-	5,005,562	04/09/1991	Cotrel	
		US-	5,176,678	01/05/1993	Tsou	
		US-	5,207,678	05/04/1993	Harms et al.	
		US-	5,217,497	06/1993	Mehdian	
		US-	5,261,909	11/16/1993	Sutterlin et al.	
		US-	5,346,493	09/1994	Stahurski et al.	
		US-	5,360,431	11/01/1994	Puno et al.	
		US-	5,443,467	08/22/1995	Biedermann et al.	
		US-	5,466,237	11/14/1995	Byrd III, et al.	
		US-	5,474,555	12/12/1995	Puno et al.	
		US-	5,476,464	12/19/1995	Metz-Stavenhagen et al.	
		US-	5,501,684	03/26/1996	Schlapfer et al.	
		US-	5,520,690	05/28/1996	Errico et al.	
		US-	5,531,746	07/02/1996	Errico et al.	

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)				
		GB 2 173 104 A	10/08/1996			<input type="checkbox"/>
		DE 195 09 332	08/14/1996			<input type="checkbox"/>
		DE 197 20 782 A1	11/1998			<input type="checkbox"/>
		DE 3711013	09/1998			<input type="checkbox"/>
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Examiner Signature	Date Considered
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WEMMH #112894 (Rev. 8/05)#382682

WEMMH PTO/SB/08a (07-05)

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		First Named Inventor	BARKER, B. Thomas		
		Art Unit	3733		
Examiner Name	SWIGER III, James L.				
Sheet	2	of	4	Attorney Docket No.	4002-3460/PC398.08

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Examiner Initials*	Cite No. ¹	Document Number		Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)				
		US-	5,549,608	08/27/1996	Errico et al.	
		US-	5,554,157	09/10/1996	Errico et al.	
		US-	5,562,661	10/08/1996	Yoshimi et al.	
		US-	5,575,792	11/19/1996	Errico et al.	
		US-	5,578,033	11/26/1996	Errico et al.	
		US-	5,584,834	12/17/1996	Errico et al.	
		US-	5,586,984	12/24/1996	Errico et al.	
		US-	5,607,426	03/04/1997	Ralph et al.	
		US-	5,609,593	03/11/1997	Errico et al.	
		US-	5,609,594	03/11/1997	Errico et al.	
		US-	5,647,873	07/15/1997	Errico et al.	
		US-	5,669,911	09/23/1997	Errico et al.	
		US-	5,672,176	09/30/1997	Biedermann et al.	
		US-	5,688,273	11/18/1997	Errico et al.	
		US-	5,690,630	11/25/1997	Errico et al.	
		US-	5,733,286	03/31/1998	Errico et al.	
		US-	5,782,833	07/1998	Haider	

FOREIGN PATENT DOCUMENTS						
Examiner Initials ^a	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ^b
		Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)				
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WEMMH #112894 (Rev. 8/05) #382682

WEMMH PTO/88/08a (07-05)

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		Number-Kind Code ² (if known)			
		US- 5,797,911	08/1998	Sherman et al.	
		US- 5,817,094	10/06/1998	Errico et al.	
		US- 5,879,350	03/1999	Sherman et al.	
		US- 5,882,350	03/1999	Ralph et al.	
		US- 5,885,286	03/1999	Sherman et al.	
		US- 5,891,145	04/1999	Morrison et al.	
		US- 5,984,924	11/1999	Asher et al.	
		US- 6,053,917	04/2000	Sherman et al.	
		US- 6,063,090	05/2000	Schlapfer et al.	
		US- 6,248,105	06/2001	Schlapfer et al.	
		US- 6,485,492	11/2002	Halm et al.	
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FOREIGN PATENT DOCUMENTS						
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		Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)				
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TOTAL AMOUNT OF PAYMENT	(\$)	180.00
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Attorney Docket No.	4002-3460/ PC398.08
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METHOD OF PAYMENT (check all that apply)

☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account number: 23-3030 Deposit Account Name: Woodard, Emhardt, Moriarty, McNett & Henry LLP

For the above-identified deposit account, the Director is hereby authorized to: *(check all that apply)*

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee.

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1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

<u>Fee Description</u>	<u>Fee (\$)</u>	<u>Small Entity Fee (\$)</u>
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	380	180

Total Claims Extra Claims Fee (\$) Fee Paid (\$)
 -20 or HP = x =
 HP = highest number of total claims paid for. If greater than 20

Independent Claims Extra Claims Fee (\$) Fee Paid (\$)
3 or HP = x =
 HP = highest number of independent claims paid for. If greater than 3

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 C.F.R. 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
-100	=	50 (round up to a whole number)	x	

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)
Other (e.g., late filing surcharge): submission of IDS

Fee Paid (\$) 180

SUBMITTED BY:

Signature

Registration No.:
(Attorney/Agent)

41,642

Telephone:

(317) 634-3456

Name (Print/Type): Christopher A. Brown

Date: _____

18 Oct 1976

CERTIFICATE OF MAILING OR TRANSMISSION

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Data

October 10, 2006

#382698

WEMMH #317053 (Rev. 7/05)